



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

May 19, 2009

Mr. Daniel K. DeWitt
Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street N.W.
Grand Rapids, Michigan 49503-2487

Mr. Henry D. Baier
Associated Vice President for Facilities and Operations
The University of Michigan
3040 Fleming Administration
503 Thompson Street
Ann Arbor, Michigan 48109-1340

Dear Mr. DeWitt and Mr. Baier:

SUBJECT: Applicability of Corrective Action Requirements to Parcels Contiguous to
Property Located at 1975 Green Road, Ann Arbor, Michigan (Facility);
MID 079 853 263

The Michigan Department of Environmental Quality (MDEQ), Waste and Hazardous Materials Division (WHMD), has reviewed the May 11, 2009, and revisions provided on May 14 and May 15, 2009, to that request for clarification that, by purchasing the Facility and property contiguous to the Facility, the other contiguous parcels acquired or owned by the University of Michigan do not become subject to corrective action requirements under Part 111, Hazardous Waste Management, of Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). Based on our review of the request, the WHMD is responding directly to both Warner Norcross & Judd LLP, as legal representative to Pfizer Inc., and The University of Michigan agreeing that the properties denoted as Parcels A (including A1, A2, and A3), B (including B1 and B2), C (including C1, C2, and C3) and D1 (see enclosed February 20, 2007, parcel maps), which are currently contiguous to the Facility and under the control of Pfizer Inc., are not subject to corrective action pursuant to Part 111. Furthermore, pieces of property that may be newly acquired and contiguous to the Facility are also not subject to Part 111 corrective action. Parcels D2 and D3, however, remain subject to Part 111 corrective action requirements, since they are included in the Facility on the Part A Permit Application, submitted November 17, 1980.

Background

The Facility formerly operated under the interim status provisions of the federal Resource Conservation and Recovery Act of 1976 (RCRA) from 1980 to 1983 as a container storage facility. The Facility was released from its financial capability requirements for closure by the U.S. Environmental Protection Agency (U.S. EPA) on

September 9, 1983. Those parcels, identified as D2 and D3 on the attached map, constitute the Facility per the original Part A application. Other properties owned by Pfizer Inc., which are contiguous to the Facility, did not become contiguous and under the control of Pfizer Inc., or others until at least 1984.

Explanation

Based on our May 13, 2009, discussion with representatives of the U.S. EPA, Region 5, and the MDEQ previous determination on DSM Pharma, dated August 22, 2006, relating to this issue, the size of a facility for the purposes of corrective action remains static after agency approval of the certification of clean closure of the regulated units. In the DSM Pharma case, the MDEQ also used its authority as a delegated state to implement the RCRA Permitting Program to interpret the Part 111 Rules to make such an approval of clean closure retroactive to the submittal date of the approvable clean closure certification.

The following facilities are contiguous property owned by Pfizer Inc., or its subsidiaries in Ann Arbor, Michigan: Parcel A (2800 Plymouth Road); Parcel B (1600 Huron Parkway); Parcel C (3200 Plymouth Road); and Parcel D (three parcels, two of which constitute the Facility – 1975 Green Road).

The Facility, as shown on the Part A application dated November 17, 1980, including Parcels D2 and D3, remains subject to RCRA/Part 111 corrective action cleanup liability (see attached figure). This is because the Facility operated a RCRA hazardous waste container storage area on these parcels.

Parcels D2 and D3 were acquired by a new owner (Parcel D1) in 1984, after clean closure of the container storage unit on September 9, 1983. Since treatment, storage, and disposal (TSD) operations were no longer being conducted at the Facility, no TSD liability would extend to Parcel D1 from Parcels D2 and D3. Similarly, Parcels A, B, and C owned by Pfizer Inc., did not become contiguous to Parcels D1, D2, and D3 until March 30, 2002, and Parcels D1, D2, and D3 were purchased by Pfizer Inc., on May 30, 2002. Therefore, the same interpretation can be applied, and no TSD liability would extend from Parcels D2 and D3 to Parcels A, B, or C. In addition, any property owned or operated by the University of Michigan that may become contiguous to Parcels D2 and D3 through a purchase from Pfizer Inc., would be subject to the same interpretation, unless that University of Michigan property is already subject to Part 111 corrective action.

Please be advised that corrective action obligations under Section 3004(v) of RCRA will continue to apply to the owner/operator of the Facility if releases are determined to have extended beyond the boundaries of the Facility onto other parcels of property.

In addition, please be advised that in making these determinations, the MDEQ is relying on the accuracy of information provided by Pfizer Inc., its counsel, and its contractors. If there is any information that Parcels A, B, C, or D1 may present an imminent and substantial endangerment to human health and/or the environment based on further

review, the MDEQ or U.S. EPA may require additional action before those parcels (or the Facility) may receive a corrective action complete determination. Imminent and substantial endangerment may be determined by the MDEQ using the current cleanup standards developed pursuant to Part 201, Environmental Remediation, of Act 451.

The MDEQ believes this determination to be consistent with, and not less stringent than, RCRA.

Finally, please be advised that this letter does not relieve Pfizer Inc., or any future owners of Parcels A, B, C, and/or D1 from any obligations that they may have under any applicable state and federal laws, including Part 201, where appropriate.

If you have any questions, please contact Mr. Daniel Dailey, Hazardous Waste Section, WHMD, at 517-335-6610.

Sincerely,



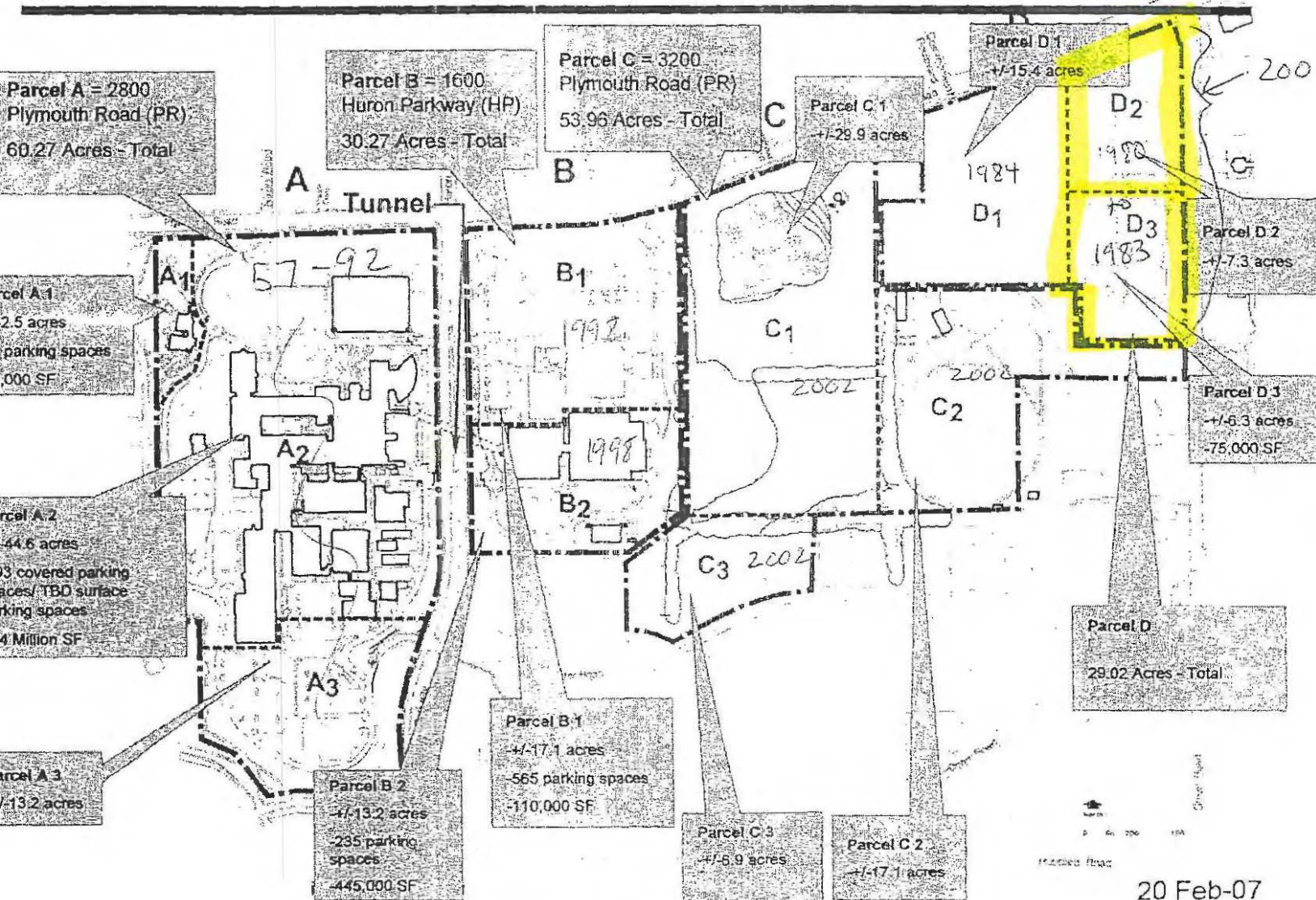
DeLores Montgomery, Chief
Hazardous Waste Section
Waste and Hazardous Materials Division
517-373-7973

Enclosures

cc/enc: Mr. William Longa, Pfizer Inc.
Ms. Sally Fisk, Pfizer Inc.
Mr. Mike Robinson, Warner Norcross & Judd LLC
Ms. Ciara Comerford, University of Michigan
Ms. Sharon Newlon, Dickinson Wright PLLC
Mr. Hak Cho, U.S. EPA, Region 5
Ms. Cheryl Howe, MDEQ
Ms. Ronda Blayer, MDEQ
Mr. Fred Sellers, MDEQ
Mr. Daniel Dailey, MDEQ
Corrective Action File

Parcel Map

1975 Green Road: D2 - D



Informational notes, including acreage,
are approximate only

20 Feb-07

ACQUISITION DATES FOR PARCELS A, B, C and D

Parcels A1-A3 were assembled by Parke, Davis & Company through five (5) acquisitions dated as follows:

- February 13, 1957
- October 2, 1962
- August 31, 1966
- December 22, 1986
- July 29, 1992

Parcels B1-B2 were acquired by Parke, Davis & Company on July 30, 1998

Parcels C1-C3 were acquired by Parke, Davis & Company on March 30, 2002

Parcels D1 - D3 were acquired by Pfizer Inc. on May 30, 2002

Therefore, Parcels A, B and C are currently under different ownership than Parcel D.

Parcels D2 and D3 (1975 Green Road) were not owned or operated in common with Parcel D1 (3300 Plymouth) until after clean closure was approved by U.S. EPA. Great Lakes Chemical certified closure of the storage unit in 1983 then subsequently sold the Green Road Parcel to Environmental Research Institute of Michigan (an independent tax exempt charitable company) in 1984. Environmental Research Institute had purchased the balance of Parcel D from a third party (Bendix) in 1975, so it owned both pieces as of 1984, but it did not acquire its interest in the Green Road parcel until after the certified closure. These parcels went through additional ownership transfers before being acquired by Pfizer.

Part A Map

